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ABSTRACT

This document presents an analysis of the New Mexico program of providing extended school year services to students with disabilities in need of such services. Individual sections provide the following information: the philosophy of extended school services in New Mexico; authority under the Individuals with Disabilities Education Act; purpose of extended school year services for students receiving special education; definitions; the need for extended school year services as determined by the student's Individualized Education Program committee; guidelines for reasonable recoupment periods; duration of extended year services; and possible service delivery models (direct services, parent training, and cooperative service arrangements). The final section provides 22 questions and answers regarding extended school year programming. (DB)

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EXTENDED SCHOOL YEAR SERVICES

The New Mexico State Department of Education

TECHNICAL ASSISTANCE DOCUMENT

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EXTENDED SCHOOL YEAR SERVICES
April, 2000

Philosophy

The New Mexico public schools are committed to ensuring that all students with disabilities receive a free appropriate public education. It is recognized that in order to provide an appropriate education some students with disabilities may need to receive special education and related services beyond 180 days per year.

Not all students with disabilities need extended school year (ESY) services nor does provision of ESY services mean that students need such services each year. Most students with disabilities, like their peers without disabilities, benefit from school vacations. Breaks in formal programming allow most children to generalize school-learned skills and behaviors to their home and community, thereby facilitating new learning outside of the school setting. However, for some students with disabilities interruption in programming, because of regression and the length of time it takes to regain lost skills and behavior, render it unlikely that they will attain the State of self-sufficiency that they otherwise would reasonably be expected to reach.

Authority — P.L.105.17 addresses the school district's responsibility to provide ESY for eligible students with disabilities.

IDEA Regulations

§300.309 Extended school year services.

(a) General.

(1) Each public agency shall ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.

(2) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with §§300.340-300.350, that the services are necessary for the provision of FAPE to the child.

(3) In implementing the requirements of this section, a public agency may not:

(i) Limit extended school year services to particular categories of disability; or

(ii) Unilaterally limit the type, amount, or duration of those services.

(b) Definition. As used in this section, the term extended school year services means special education and related services that:

(1) Are provided to a child with a disability

(i) Beyond the normal school year of the public agency;

(ii) In accordance with the child's IEP;

(iii) At no cost to the parents of the child; and

(2) Meet the standards of the SEA.

(Authority: 20 U.S.C. 1412(a)(1))

Purpose of Extended School Year Services

> The purpose of an extended school year is to prevent or slow severe skill regression caused by an interruption of special education services(s) during extended periods when school is not in session. The purpose is not to enhance the present levels of educational performance exhibited by students with disabilities at the end of the regular school year. The need for extended school year service(s) is based on a construct of skill regression and a student's limited capacity for recoupment. An extended school year may be provided only when it is determined that a student might regress to such an extent in a critical skill area that recoupment of such skill loss would require an unusually long period of time to recoup, or make it unlikely or impossible to recoup the present level of educational performance. When it is determined by a multi disciplinary team that a student is in need of extended school year service(s), the service(s) will be proposed at no cost to parents. Extended school year services will be provided only under the auspices of an individualized education program (IEP). Need for extended school year service(s) will be determined on an individual-by-individual basis. Extended school year guidelines and practices will not be invoked which have an effect of considering students with disabilities as an exceptional class.

Extended school year services for students receiving special education provide a different focus than traditional summer school programs. Extended year services provide an extension of the programming from the regular school year, as identified in the IEP. In providing an extended year service to students, the school is acknowledging that the student's program does not end with the close of the regular school year, but requires an extended period of time.

Definitions

A. **Extended School Year** — provision of special education and related services beyond 180 days at no cost to parents.

B. **Self-sufficiency** — the demonstration of independence evidenced by the ability to acquire skills commensurates with assessed potential.

C. **Regression** — a reversion to a lower level of functioning, as evidenced by a decrease in the performance level of previously attained skills which occurs as a result of an interruption in educational programming.

D. **Recoupment** — the ability to regain or recover the level of skills attained prior to interruption of programming.

E. **Significant Regression/Recoupment Factor** — the demonstration of regression beyond a reasonable recoupment period.

F. **Related Services** — transportation and such developmental, corrective, and other supportive services as are required to assist a student with disabilities to benefit from special education.

Need for Extended School Year Services

A significant regression/recoupment factor provides the basic premise for establishing criteria and standards for extended school year services. The regression/recoupment factor is relative to the student's current IEP instructional goals and objectives and his/her current levels of educational performance. However, this is not to be construed to include any student who is simply not showing progress in the accomplishment of stated instructional goals and objectives. Determination of the need for extended year services is the result of a thorough analysis of formal and informal assessment data collected by a multi disciplinary team. In considering a recommendation for ESY services the IEP committee may want to consider the following factors that could indicate a need for ESY: severity of the disability, behavioral skills, critical learning period, learned material (e.g. cognitive test items may be most susceptible to regression), potential for generalization and maintenance, medical conditions, and family circumstances.

Within the categories marked by a severe disability, it is not appropriate to assume that a significant regression/recoupment factor exists. Some students with severe disabilities consistently demonstrate a limited array of skills, but they may not demonstrate a significant regression/recoupment factor in any of these skills. Such students are not appropriate candidates for an extended school program.

There is no precise measure of the amount of regression and limited recoupment which would indicate that a student should receive extended educational programming. The IEP committee documents that a delay or break in the provision of special education and related services may result in a significant delay in the recoupment of critical skills.

The need of a student with disabilities for ESY services may be considered at any meeting called to discuss the IEP. However, for those students about whom a suspicion of the need for an ESY program exists, a discussion of ESY services is included at the annual review of the student's IEP. It is important to schedule reviews early enough to allow for planning on the part of the parent, the administrative unit and, if necessary, the agency providing the educational and educationally related services. The IEP committee documents the need for ESY and the IEP goals to be addressed during ESY on the IEP.

An IEP committee may want to consider a review of the following in determining the need for ESY:

A. Current IEP, especially the present levels of educational performance, annual goals, and short-term instructional objectives.

B. Pre- and post-testing using criterion-referenced assessment procedures.

C. Activity on the part of educators and/or parents which specifically addressed the maintenance of learned skills while programming was interrupted.

D. Consideration of pertinent medical, psychological, and educational data.

E. Consideration of data base of regression/recoupment. Data should be gathered and documented periodically during the regular school year which reflects the regression/recoupment cycle experienced following interruptions of instruction services.

F. Areas of learning which are identified as an integral part of a skill area required to reach the student's assessed potential, such as social, motoric, behavioral, academic, self-help, and communicative abilities.

G. Documented evidence showing that substantial regression caused by interruption in educational programming, together with the student's limited recoupment capacity may result in a significant delay in recoupment of critical skills.

There are questions to be asked which may alert the IEP team to the possible need for extended school year consideration. A significant number of positive responses may suggest the need for consideration for extended educational programming.

1. Does the student demonstrate a severe disability in one or more areas?

2. Does the student experience significant regression in adaptive behaviors or learned skills over regularly scheduled school breaks during the year (i.e., holidays, weekends, between special education classes)?

3. Is a significant amount of time and effort required to assist the student in regaining previously learned behaviors and skills?

4. If the student has been enrolled in a special education program in previous years, has there been a record of regression and limited recoupment following summer breaks?

5. Have previous extended educational programs for this student resulted in positive rather than negative benefits for the student?

6. Would the benefits to be derived from an extended educational program outweigh the positive benefits of a summer vacation?

7. Have other program options which would meet the needs of the student been considered and determined to be of less benefit than an extended educational program?

Guidelines for Reasonable Recoupment Periods

A review of literature suggests the general guideline for a reasonable recoupment period may be five or more instructional days for each two week interruption in educational programming. This guideline may be used to compute reasonable recoupment periods according to the length of interruption in an educational program.

The length of interruption in instructional programming which causes a detrimental effect may vary, because the regression/recoupment cycle is an individual process. While generalities are helpful, it is imperative that each student's functioning be considered individually.

Duration

It is the responsibility of the IEP committee to define the period of extended year services annually on an individual basis in consideration of each student's regression/recoupment factor.

Possible Service Deliver Models

ESY service delivery models may include, but are not limited to, the following list. Transportation must be provided when necessary to ensure implementation of ESY services.

A. Direct services refer to special education and/or related and support services. These services may be provided individually or in groups, at center-based or home sites.

B. Parent training provides the parent(s) with appropriate instructional techniques and materials so that the parent can implement the student's program.

C. Cooperative service arrangements refer to the coordination of services with district programs and other agencies. Such arrangements for implementing ESY components may include local recreation programs, summer school, sheltered workshops, or other appropriate programs.

Conclusion

The IEP committee determines whether the student requires an extended educational program and, if so, the type and length of the program required. Such a determination, like other special education decisions, must be based on the individual student's unique needs. As a student's needs change over time, the need for extended programming may also change; and the student's IEP is revised accordingly.

EXTENDED SCHOOL YEAR QUESTIONS AND ANSWERS

The following questions and answers regarding extended school year programming.

1. **Can schools refuse to consider extended school year services?**
   Schools cannot refuse to consider extended school year services. The Individuals with Disabilities Education Act, P.L. 105.17 (IDEA) requires all decisions to be made on the basis of individual needs of a student. Any policy that attempts to be categorical is not individualized (e.g. no student gets summer programing/ there are no related services during summer / if you get summer school then you get the same thing they offer everyone else/only individuals with severe disabilities get summer services).

2. **Must schools notify parents of the availability of extended year services?**
   Just as the school provides general notice to parents about other services (e.g. evaluation, physical therapy), the school must inform parents of the availability of extended school year services when appropriate. Schools must bring up extended school year services at the IEP where it appears the student may need it. The burden is not on the parents to bring it up or to prove it is needed. Schools have a duty to identify needs, to evaluate for needs, to bring them up at the IEP meeting, and to offer an appropriate education.

3. **Must schools have written criteria for making decisions on extended school year services?**
   Schools do not use discretionary, subjective criteria about extended school year services which could cause varying decisions from building to building. Schools develop criteria and communicate them district wide.

4. **Can decisions about ESY be postponed until after summer to gather regression/ recoupment data?**
   Schools cannot delay a decision on the upcoming summer to see what happens if services are not provided. The decision has to be made right away based upon the best evaluation information currently available.

5. **Can decisions about ESY be determined retrospectively?**
   ESY services are not earned by what happened last summer. A student is entitled to them because of what might happen next summer. The issue is whether there is significant jeopardy if the student is not provided a program.

6. **Must the entire IEP be implemented in ESY?**
If one skill area is in jeopardy, the student has a need in that one area. The skill in need may be academic, developmental, behavioral, etc.

7. **Is the IEP in effect during ESY?**
IDEA is clear that special education services must have an IEP "in effect". ESY services are not a bonus. They are needed in order for education to be "appropriate" and must be under the direction on an IEP. The purpose of ESY is not to learn or to enhance new skills, but to *prevent* serious regression of previously learned skills. In addition the purpose is to provide only special education and special education related services.

A student with disabilities is not automatically in need of ESY. However, the decision to provide or not provide an ESY program must be made on an individual basis and must be provided under the auspices of an IEP.

Services must always be "specially designed", "tailored", and "personalized" to meet the student's "unique needs" and that relates back to the IEP.

The IEP team looks at each area of need (behavioral, social, emotional, vocational, speech, academic, independent living skills, physical needs, etc.) and examines each area's annual goals. Always keep in mind the question - what are the student's unique needs that require an extension of the program into the summer?

8. **Can related services be provided during the summer if appropriate?**
If related services are needed for education to be appropriate, they must be offered. The school might argue there cannot be "related" services during the summer if no instruction is being offered over the summer. On an individual basis, however, the student may need the related service during the summer so that instruction can continue in the Fall.

9. **Can one program be offered for all ESY students?**
The IEP must be honored. Truly individualized programming cannot occur in a program simply grouping everyone together for administrative convenience. Such a summer class might be radically different than what the student receives during the regular year and may be counter-productive.

10. **Can parents purchase services if the school does not provide ESY services?**
If parents purchase services and can show an appropriate IEP would have borne those expenses, then they can get reimbursement. An appropriate IEP would have to have notice to parents, full consideration of the need for services, goals, objectives, and so forth. A court will look at 1) availability of services in the community, 2) the diligence of the parent in searching for appropriate services at a reasonable price, and 3) the cooperation of the school in helping the parent find alternative services.

If the school decides not to offer services to a particular child at the start of the summer, it should have some mechanism for offering services midway if it learns that services are needed.

If the school did not offer services over the Summer and they realize that the student has regressed when she comes back in the Fall, the school should target compensatory services to bring the student up to where she was expected to be. Otherwise, the school would be violating the IEP set to start in the fall.

11. **Is ESY the same as summer school?**
Extended school year services are not intended to replace or be synonymous with those services typically referred to as summer school.

ESY services are provided when it is determined from historical data, documented clinical or classroom observation, or other objective evidence that the regression of already learned skills will reach a point that the time spent in recoupment of learned skills detracts from the teaching of new skills.

Data for determining regression may be collected following lengthy holidays or any other extended absences from school.

12. **How can regression/recoupment be measured?**
    A. The measure cannot be global in nature, but must be sensitive to small changes. It should be individualized and solicit a variety of data sources. It should focus on individual IEP objectives.

    B. A formalized behavior checklist may be best, and the measurement methods of applied behavior analysis would be suitable in many situations. Teacher ratings may be acceptable, but problems in consistency of ratings across teachers, students, and circumstances make these ratings less desirable.

       There is precedent for the use of formal test instruments and the percent of test items mastered or answered correctly may be a good "score" to use.

    C. Continuous and ongoing measurement is preferred with a minimum of three data points:
       1) at the end of instruction
       2) at the beginning of subsequent instruction
       3) at the time of recoupment.

Any loss or reduction from 1) and 2) would give measure of regression. Identification of recoupment, data point 3), would almost always require several consecutive measurements, since one is not likely to know for sure when recoupment has taken place.

D. Measurement includes time, e.g. days or weeks. Both time required for regression to occur and for recoupment are necessary to determine need. Measurements of regression/recoupment might best be recorded in terms of an individual graph for each student. The vertical axis could plot performance, and the longitudinal axis could plot time. The form of the graph would approximate an inverted "bell curve", depending on rates of regression/recoupment.

13. **What regression/recoupment takes place? Who or what is most susceptible?**
    A. Regression does take place, for students both with and without disabilities. In children without disabilities, we would expect to see regression in problem solving and arithmetic skills more frequently. In students with disabilities, we might expect to see regression more frequently among students with more severe disabilities. Recoupment presumably takes place, given appropriate circumstances for relearning, but time and resources required are generally unknown.

    B. Beyond the above generalization, there is only a limited basis for predicting regression/recoupment in terms of students, skills, and/or time. Articulation skills may not be subject to regression, and performance on cognitive test items may be most subject to regression. Recoupment by regular education students and by selected students receiving special education is likely complete by November. At this point in time, it may be best to view regression/recoupment as an extremely individualized phenomenon.

14. **How is regression/recoupment related to disability, severity, and age?**
    A. There is little research on the relationship between age and regression/recoupment.

    B. Eligibility for ESY cannot be based on severity. All students with disabilities, regardless of severity should be considered for ESY. Generally speaking there is some basis for expecting more students with severe disabilities to experience greater regression, but one may also expect numerous exceptions to this generalization. The exceptions are likely related to area of content and personal/environmental factors, about which little is known.

    C. Little is known about kind of disability and regression recoupment. There is some evidence that articulation skills of students with communication disorders are not subject to regression, while all or most cognitive knowledge/skills are probably subject to regression, regardless of disabling or non-disabling conditions. The

regression/recoupment phenomenon may be linked strongly to types of knowledge/skill learned, but perhaps may be most generally tied to personal idiosyncrasies of learners.

15. **How is recoupment related to regression? Does this relationship depend on disability, severity and/or age?**
By definition recoupment cannot exist without regression. There is some very limited research which suggests that recoupment may not always take place.

16. **Is regression/recoupment the same for the student with disabilities as it is for the child without disabilities?**
Yes, but for some students with disabilities, it may differ depending on the student, extent of disability, area of learning, circumstances of application, and probably other unknown factors.

17. **Do family/environmental factors affect regression/recoupment?**
There have been few or no attempts to research the effect of family factors. The research base for environmental factors is too limited to provide any general prediction.

18. **Who should be candidates for ESY services? Who should receive ESY services?**
Research indicates that some students with disabilities in some circumstances experience regression/recoupment that is "worse" than that experienced by students receiving general education. Identification of those specific students requires direct, ongoing assessment of a highly individualized nature.

19. **Under what conditions is ESY service needed?**
Factors that could indicate a need for ESY are severity of disability, behavior problems, learned material (e.g. cognitive test items may be most susceptible to regression), potential for generalization and maintenance, medical conditions, and possible family circumstances.

20. **How can we make the IEP process less subjective?**
Data collection should focus on IEP objectives, use a variety of sources and methods, and take place with adequate frequency. Document data collection and application of outcomes to criteria.

21. **What procedures can be used by IEP committees to make ESY service determination understandable and straight-forward?**
Select manageable data collection procedures and use language that a parent will understand.

22. **What alternative programmatic approaches are valid for ESY service?**
ESY service can be more than a center-based summer day program, and any of the regular school year program options are valid for ESY services, even though research literature provides little documentation of ESY delivery systems.

ESY programming involves modification of regular school year instruction in order to maximize the potential for generalization and maintenance during the summer interruption of instruction.

REFERENCES

Individuals with Disabilities Education Act and Regulations, June, 1997

Extended School Year Guidelines, Training Materials, New Mexico Department of Education, April 2000.

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